

1 **THE ESTLE LAW FIRM**

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8 ONEWEST BANK, FSB AS SERVICER FOR DEUTSCHE BANK NATIONAL TRUST
9 COMPANY AS INDENTURE TRUSTEE OF THE INDYMAC HOME EQUITY MORTGAGE
10 LOAN ASSET-BACKED TRUST, SERIES 2006-H1

11 **UNITED STATES BANKRUPTCY COURT**

12 **NORTHERN DISTRICT OF CALIFORNIA**

13 **OAKLAND DIVISION**

14 In re:

Case No. 11-73005-EDJ
Chapter 13

15 CYNTHIA L. HALL,

STIPULATION ON DEBTOR'S MOTION TO
VALUE SECURED CLAIM AND TO AVOID
LIEN OF ONEWEST BANK, FSB

Debtor(s).

16 _____
17 TO ALL PARTIES OF INTEREST:

18 PLEASE TAKE NOTICE THAT this stipulation is entered into by
19 and between Debtor CYNTHIA L. HALL (the "Debtor"), by and through
20 her attorney of record; and Respondant ONEWEST BANK, FSB AS
21 SERVICER FOR DEUTSCHE BANK NATIONAL TRUST COMPANY AS INDENTURE
22 TRUSTEE OF THE INDYMAC HOME EQUITY MORTGAGE LOAN ASSET-BACKED
23 TRUST, SERIES 2006-H1 ("OneWest"), by and through its attorney of
24 record.

25 **RECITALS**

26 1. Debtor is the maker of a Note in favor of OneWest in
27 the original amount of \$56,000.00, secured by a second deed of
28 trust encumbering the real property at 22530 Third St. #306,
Hayward, CA 94541 (the "Property").

1 2. On or about December 14, 2011, Debtor filed a voluntary
2 petition under Chapter 13 of the Bankruptcy Code in the United
3 States Bankruptcy Court for the Northern District of California,
4 and was assigned Case No. 11-73005-EDJ.

5 3. On or about December 14, 2011, Debtor filed a Motion to
6 Value Secured Claim and to Avoid Lien of OneWest Bank, FSB,
7 praying that the Court find OneWest's second deed of trust
8 encumbering the Property be avoided.

9 **THE PARTIES HEREBY STIPULATE AS FOLLOWS:**

10 1. OneWest's claim shall be allowed as a non-priority
11 general unsecured claim. OneWest may file an amended Proof of
12 Claim listing its claim as unsecured to be paid in accordance
13 with the Debtor's Plan. If an amended claim is not filed, the
14 Trustee may treat any claim on the debt filed by OneWest as
15 unsecured upon the entry of this order.

16 2. The avoidance of OneWest's second deed of trust is
17 contingent upon the Debtor's completion of her Chapter 13 Plan
18 and the Debtor's receipt of a Chapter 13 discharge.

19 3. Upon receipt of the Debtor's Chapter 13 discharge and
20 completion of her Chapter 13 Plan, the Order Approving this
21 Stipulation may be recorded by the Debtor in the appropriate
22 County Recorder's Office.

23 4. OneWest shall retain its lien for the full amount due
24 under the subject loan in the event of either the dismissal of
25 the Debtor's Chapter 13 case, the conversion of the Debtor's
26 Chapter 13 case to any other chapter under the United States
27 Bankruptcy Code, if the Debtor completes the Chapter 13 plan but
28 does not receive a discharge, or if the Property is sold or

1 refinanced prior to the Debtor's receipt of the Chapter 13
2 discharge.

3 5. In the event that the holder of the first lien on the
4 Property forecloses on its security interest and extinguishes
5 OneWest's second deed of trust prior to the Debtor's completion
6 of her Chapter 13 Plan and receipt of a Chapter 13 discharge,
7 OneWest's lien shall attach to the surplus proceeds of the
8 foreclosure sale for the full amount of the subject loan balance
9 at the time of the sale.

10 6. Each party shall bear its own attorney's fees and costs
11 incurred in the present stipulation.

12 7. This Stipulation may be executed in counterparts, and
13 facsimile signatures shall be deemed originals.

14
15 Dated: 1/24/11

/s/Mark D. Estle
Mark D. Estle, Esq.
Attorney for Creditor
ONEWEST BANK, FSB AS SERVICER
FOR DEUTSCHE BANK NATIONAL
TRUST COMPANY AS INDENTURE
TRUSTEE OF THE INDYMAC HOME
EQUITY MORTGAGE LOAN ASSET-
BACKED TRUST, SERIES 2006-H1

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21 Dated: 1/24/11

/s/Nathan David Borris
Nathan David Borris
Attorney for Debtor